

# Memorandum



**Date:** February 10, 2005

RTC

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

Agenda Item No. 1(E)5

**From:** George M. Burgess  
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name of George M. Burgess.

**Subject:** Status Report on North/South Retail and Duty and Tax Free Concessions Request  
for Proposals

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The purpose of this memorandum is to provide a status report on the Aviation Department's Requests for Proposal (RFP) for North/South Retail Concessions and Duty and Tax Free Concessions. The report provides a short history of the packages and pre-solicitation process, a discussion of the revisions made to the RFP packages based on the input received at the December 2, 2004 Board meeting, and a report on the progress of the solicitation process to date.

## **North/South Retail Concession Program**

### Background and Revisions As Previously Described to the Board:

North/South Retail Concessions Program, RFP No. MDAD-01-04, will provide 77 new retail locations in the North and South Terminals as construction of those facilities are completed. The aggregate minimum initial Minimum Annual Guarantee (MAG) under the program is \$7,073,757 which is comprised of \$4,288,608 in rent and \$2,785,150 in the enplanement fee set at \$0.09 per enplaned passenger. The program is structured to consist of two large packages of approximately 36 locations each, and two small packages of 2 locations each. The large packages have been structured to spread the locations relatively evenly between the North and South Terminals to spread competition throughout those areas and to spread the risk to the concessionaires from fluctuations in airline service and relocations. Proposers may propose on both large packages, but may be awarded only one package. The two small packages are sized at 1,732 and 2,060 square feet respectively. These packages are designed to allow all small business concessionaires to directly lease with the Airport - in addition to any subleasing activities that they may enter into with the large package proposers.

To promote competition, the large packages are designed to allow either developers or prime operators to propose on the packages. In response to concerns raised by both groups, several revisions were made to increase the financial viability of the packages for both groups. The revisions include:

- The prime operators are permitted to operate up to 60% of the locations within a package.
- The percentage rents required for each concept were reduced in order to allow developers and prime operators flexibility to recapture their overhead without building in a fixed developers' fee.
- The commencement of the Minimum Annual Guarantee (MAG) payments was also adjusted and delayed until 365 days from the effective date of the agreement.
- The requirement to offer financing for sub-tenant improvements was limited to DBE sub-tenants only. The 30% DBE participation goal remains in place.
- To better ensure the proposer's ability to amortize its investment at least five years, the term of the concession agreement has been changed from seven years with 3 one-year extensions to eight years with a one to two year option. The flexibility in the final option is to assist the Department in regrouping and remarketing the terminal-wide retail program at the expiration of the agreement.

- The marketing and promotional program fee was reduced to ½% instead of 1%.

The Minimum Annual Guarantee (MAG) was also divided into a space rental component (equal to the average terminal rental rate) and a MAG component to be conscientious of the sales tax burden on the concessionaire.

Solicitation Activities:

The RFP was advertised on December 14, 2004, with proposals due on April 15, 2005. It is important that the RFP be awarded no later than the targeted September 2005 date, so that concessions may open concurrently with the opening of the South Terminal.

A pre-proposal meeting was held on January 6, 2005 with 78 attendees at the meeting. The pre-proposal meeting provided an overview of the opportunities offered including review of the business terms, minimum qualifications, scope of services and retail packages, review of design and construction processes and expectations, and DBE participation requirements.

Proposed revised language was provided to the attendees for review and discussion relating to:

- Prior written approval by the Department before making any change in the configuration, concept or tenant proposed for a location in the Successful Proposer's response to the RFP,
- A prohibition on passing through costs to a sub-tenant not directly related to a Location except for costs required by the Department such as a marketing fee and/or common logistics fee,
- The adjustment of the time to file the required annual audit,
- Questions and comments were requested no later than January 20, 2005 for inclusion in Addendum #2,

A "How to Respond to a Proposal" workshop followed the pre-proposal meeting with 26 attendees. The workshop reviewed the components of the RFP including information regarding the purpose of the solicitation, the proposal submittal process, financial requirements, completing experience and minimum qualifications sections, completing leasing plans, completing DBE plans, expectations for managing, operating and maintaining experience, and facility maintenance and operations plans.

Addendum # 2 to the RFP will be issued in early February. In addition to the changes described above, the addendum contains the following revisions:

- The performance guarantee under the agreement is maintained at 100% of the MAG component plus the space rental component. However, 25% of that guarantee must be in the form of an irrevocable standby letter of credit or cashier's check to facilitate the collection of the performance guarantee without putting the total amount at a level which might discourage proposers. The remainder may be provided through a performance bond.
- The definition of a Small Business was changed to reflect the definition as per the U. S. Small Business Administration (SBA) Small Business Size Regulations 13 CFR 121 (meaning a business with annual gross revenue of six (6) million dollars or less for the retail trade.

**Duty and Tax Free Concession**

Background and Revisions As Previously Described to the Board:

Duty and Tax Free Concession, RFP No. MDAD-03-04, covers the Duty and Tax Free locations throughout the Airport terminal building including the construction of new locations as the North and

South Terminal facilities are completed. The program is a single package and has a 30% DBE participation goal. At the request of the industry, the RFP as issued was adjusted so that the MAG is a flat amount rather than per international enplaned passenger. However the MAG has been divided into a space rental component (equal to the average terminal rental rate) and a MAG component to be conscientious of the sales tax burden on the concessionaire. The aggregate minimum initial Minimum Annual Guarantee (MAG) under the program is \$8,430,287 which is comprised of \$4,195,791 in rent and \$4,234,496 as a fix minimum acceptable amount.

Solicitation Activities:

The RFP was advertised on December 17, 2004, with proposals due on April 22, 2005. It is important that the RFP be awarded no later than the targeted October 2005 date so that the concession may be awarded before the expiration of the current contract in November 2005 and a new facility can open concurrently with the opening of the South Terminal.

A pre-proposal meeting was held on January 11, 2005 with 55 attendees at the meeting. The pre-proposal meeting provided an overview of the opportunities including review of the business terms, minimum qualifications, scope of services and retail packages, review of design and construction processes and expectations, and DBE participation requirements.

Proposed revised language was provided to the attendees for review and discussion relating to:

- Prior written approval by the Department before making any change in the configuration, concept or tenant proposed for a location in the Successful Proposer's response to the RFP,
- A prohibition on passing through costs to a sub-tenant not directly related to a Location except for costs required by the Department such as a marketing fee and/or common logistics fee,
- The adjustment of the time to file the required annual audit,
- Questions and comments were requested no later than January 22, 2005 for inclusion in Addendum #1

A "How to Respond to a Proposal" workshop followed the pre-proposal meeting. The workshop reviewed the components of the RFP including information regarding the purpose of the solicitation, the proposal submittal process, financial requirements, completing experience and minimum qualifications sections, completing leasing plans, completing DBE Plans, expectations for managing, operating and maintaining experience, and facility maintenance and operations plans.

Addendum #1 will be issued in early February. In addition to the changes described above, the addendum contains the following revisions:

- The MAG is implemented on a pro-rata basis as locations are opened.
- The performance guarantee under the agreement is maintained at 100% of the MAG component plus the space rental component. However, 25% of that guarantee must be in the form of an irrevocable standby letter of credit or cashier's check to facilitate the collection of the performance guarantee without putting the total amount at a level which might discourage proposers. The remainder may be provided through a performance bond.
- The definition of a Small Business was changed to reflect the definition as per the U. S. Small Business Administration (SBA) Small Business Size Regulations 13 CFR 121 (meaning a business with annual gross revenue of six (6) million dollars or less for the retail trade.
- The Aggregate MAG is being restated to provide the Proposers the option to choose to incorporate portions of the incumbent's support space as appropriate. Rent will be based solely on the stores, excluding any support space(s). The Aggregate minimum initial MAG under the

program is re-stated as follows: \$8,430,287 which is comprised of \$2,574,786 in rent and \$5,855,501 as a fix minimum acceptable amount.

*Roy Wood*

*Ass't* . County Attorney

*Approved for legal  
sufficiency.*

*Offay 2/5/05*

Assistant County Manager